

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**CPM CONSULTING, LLC and
MARTINO RIVAPLATA,**

Plaintiff,

v.

CAPSUGEL US, LLC,

Defendants.

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**CIVIL ACTION NO.
3:17-cv-03059-S**

DECLARATION OF MARTINO RIVAPLATA

I, Martino Rivaplata, declare as follows:

1. “My name is Martino Rivaplata. I am over the age of twenty-one years, and capable of making this declaration. The facts and statements made herein are within my personal knowledge and are true and correct.
2. I am one of two named Plaintiffs in this matter. I am a US citizen.
3. The other Plaintiff is CPM Consulting, LLC (“CPM Consulting”). I am the sole member of CPM. It is the business entity through which I perform consulting IT services.
4. I hold a Bachelor of Science degree in Accounting, and a Bachelor of Science degree in Finance, which includes a minor in Information Systems. Both degrees are from Southern Methodist University. Additionally, I hold six database certifications, including credentials for SAP HANA. I have had extensive experience working in the IT industry, principally on projects lasting 6 months or more, which is typically referred to in the industry as 6 months plus.
5. On March 28, 2017, I had a phone conversation with Barry Cormier, a recruiter with Robert Half, to discuss a Senior SAP Native HANA Data Modeler project for his end client, Capsugel, based in Morristown, New Jersey, who is the Defendant in this lawsuit. Cormier indicated that Capsugel needed someone experienced in both HANA and BPC to assist in the integration of systems, and that the project length was 6 months plus.
6. At the time Cormier contacted me, I was exploring several different job opportunities with 6 months plus or more project lengths but was intrigued by the Capsugel project since it would utilize my skills in both HANA and BPC. Cormier arranged for me to have a phone interview with Capsugel.

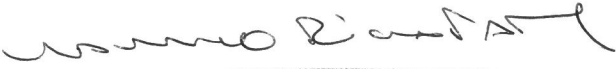
7. On March 29, 2019 I had an hour-long phone interview with Muralidhar Nuggehalli, the head of Capsugel's Finance and Reporting Applications Department. During that interview we discussed at length my work experience and expertise in HANA and BPC, and the technical work I would be asked to do if I were hired. After he made the decision to hire me for the project, he became my primary supervisor. We discussed during my interview that the project length was expected to be 6 months plus. He never told me that the project were only last 3 months. Had I known that, I would not have taken the job.
8. Through my interview with Nuggehalli, I learned that Lonza had purchased Capsugel. At the time both were global pharmaceutical companies. The primary purpose of my work was to integrate the two company's systems in order to merge Capsugel's financials into Lonza.
9. I was advised after my interview that I was being hired for the project. I spoke with Yokesh, another Capsugel employee, about where to find an apartment near Capsugel's Morristown location. I signed a one-year lease based on the expected project length of 6 months plus.
10. I also obtained a New Jersey Identification Card, believing that I was going to be living in New Jersey close to a year.
11. By March 30, 2017, I completed all necessary paperwork to begin my work at the project.
12. April 3, 2017 was my first day working at the Capsugel facility in Morristown, NJ.
13. **BPC Team:** My work was split between two teams, the BPC team and the HANA team. BPC stands for SAP's Business Planning and Consolidation Software. The BPC work was supervised by Lynn Horowitz and Michael Mars. My interaction with the BPC team was excellent, they were very collaborative. Lynn Horowitz and Michael Mars were very knowledgeable, very cordial, very positive, very kind and very precise on what they needed from me. We had weekly meetings on the progress of my work. The nature of these meetings was about the work they needed done by me, with follow up progress meetings. They were very satisfied with my work, especially when I resolved the issue with Consolidations logic, which Michael Mars manages. He liked that a lot because the solution I gave them improved their consolidation processes and made them faster. Lynn Horowitz also was very pleased with the BPC Input Schedules I developed for her.
14. **HANA Team:** The other part of my work was on the HANA team supervised by Muralidhar Nuggehalli, who interviewed and hired me. He was from India and told me he had a H1b visa.. HANA (High-Performance Analytical Appliance) is database software that is fast due to the type of memory it uses. The HANA Team was all Indian workers, except me. The Indians working on the HANA team side in the Morristown office with me were Nuggehalli, Yokesh Sivakumar and Prakash; there were other offshore Indians who talked with us by phone or on Skype. Sometimes there were other Indians from different Teams who participated in the meetings, which were held at least weekly. The vast number of persons working at the Capsugel facility were from India. They liked to keep to themselves. I felt like an outsider as I was the only American worker on the HANA team.
15. My interaction with the HANA team was very different from the BPC Team. In the team meetings they seemed to minimize my work although I was supposed to be the team lead. In

two of the meetings I was told I didn't need to stay "This is an all-Indians meeting" which singled me out as the lone American worker. However, Nuggehalli appeared to be pleased with my work for the HANA team.

16. In mid-June, Nuggehalli and his boss, Danny Dupont, suddenly appeared at my cubicle to tell me that my job at Capsugel was finished, and I wasn't needed anymore. It was a very brief conversation, less than a couple of minutes, at which point they turned around and left. I was completely surprised, as I knew from my daily interaction there was a lot more work to do on both the HANA and BPC teams.
17. Nuggehalli subsequently informed me that I should spend my last two weeks at Capsugel transitioning the work over to Yokesh Sivakumar and the other two offshore team members, Venugopal Nair and Karunakar Muppaneni, which I did.
18. During my time at Capsugel, I was required to work at their facility. Capsugel directed the details of my work and required me to attend progress meetings.
19. The SAP BPC team meetings were supervised by Lynn Horowitz and Michael Mars on a daily basis. As I was progressing with the input templates, I sent them to both Lynn and Michael for testing. They would make changes or additions and send them back to me.. This was a daily interaction with both Lynn and Michael, until the final acceptance was reached on all the input templates I worked on.
20. The daily SAP HANA team meetings were also supervised closely by Nuggehalli and Yokesh. They sent me the work to be done during the week, I worked on it and sent it back to both of them to review. They sent back to me any changes and modifications, which I did immediately. Then after all the work items were satisfied, they sent me an email confirming the successful completion of my tasks.
21. In both teams, the work was very closely controlled and supervised and they gave me instructions for me to perform all the tasks on my own to the satisfaction of both teams, which was confirmed by emails I received from both teams.
22. My time was entered into Robert Half and Capsugel time systems; it had to be approved before I was paid for my work. I remember I worked over the Memorial weekend, so I logged my hours worked, but Nuggehalli denied payment because he said "We do not celebrate Memorial Day."

I declare under penalty of perjury that the foregoing facts and statements are true and correct.

Executed on this 24th day of July 2019, in Greenwood Village, Arapahoe County, Colorado.



Martino Rivaplata